

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHARLES CHATMAN,) No. C 07-2834 MMC (PR)
Plaintiff,) **ORDER OF TRANSFER**
v.)
WARDEN DERRAL G. ADAMS;)
ASSOCIATE WARDEN B. ESPINOSA;)
CAPTAIN R.M. COMFORT; CAPTAIN)
J.R. WESPHAL; SERGEANT R.P.)
HILL; SERGEANT TILSTON;)
DEPUTY WARDEN J. WARD,)
Defendants.)

Docket No. 3

On May 31, 2007, plaintiff, a prisoner at High Desert State Prison ("HDSP") in Susanville, California, and proceeding pro se, filed the above-titled complaint pursuant to 42 U.S.C. § 1983. Plaintiff alleges that defendants, all employees of California State Prison, Corcoran ("CSP-Corcoran") in Corcoran, California, violated plaintiff's constitutional rights while plaintiff was housed at CSP-Corcoran.

Venue may be raised by the court sua sponte where the defendant has not filed a responsive pleading and the time for doing so has not run. See Costlow v. Weeks, 790 F.2d 1486, 1488 (9th Cir. 1986). When jurisdiction is not founded solely on diversity, venue is proper in (1) the district in which any defendant resides, if all of the defendants reside in the

1 same state; (2) the district in which a substantial part of the events or omissions giving rise to
2 the claim occurred, or a substantial part of the property that is the subject of the action is
3 situated; or (3) a judicial district in which any defendant may be found, if there is no district
4 in which the action may otherwise be brought. See 28 U.S.C. § 1391(b). When venue is
5 improper, the district court has the discretion to either dismiss the case or transfer it “in the
6 interest of justice.” See 28 U.S.C. § 1406(a).

7 It is clear from the complaint and the attachments thereto that plaintiff’s claims arise
8 out of actions alleged to have been committed at CSP-Corcoran by defendants located at
9 CSP-Corcoran. CSP-Corcoran is located in Kings County, California, which is within the
10 venue of the Eastern District of California. See 28 U.S.C. § 84(b).¹ As a result, venue is
11 proper in the Eastern District of California, not in the Northern District.

12 Accordingly, in the interest of justice, the above-titled action is hereby
13 TRANSFERRED to the United States District Court for the Eastern District of California. In
14 light of the transfer, this Court will defer to the Eastern District with respect to plaintiff’s
15 application to proceed in forma pauperis.

16 The Clerk shall close the file and terminate Docket No. 3 on this Court’s docket.

17 IT IS SO ORDERED.

18 DATED: June 15, 2007

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MAXINE M. CHESNEY
20 United States District Judge

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27 ¹The Court further notes that HDSP, where plaintiff is currently housed, is located in
28 Lassen County, which likewise is within the venue of the Eastern District. See 28 U.S.C.
§ 84(b).